

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.11702 OF 2016 IN
WRIT PETITION NO.2354 OF 2016

The State of Maharashtra,
through the Collector (Planning),
District Planning Committee,
Parbhani

Applicant

Versus

Abdul Sajid Abdul Gaffar & others

Respondents

WITH
CIVIL APPLICATION NO.11703 OF 2016 IN
WRIT PETITION NO.2354 OF 2016

The State of Maharashtra,
through the Executive Engineer,
Public Works Department,
Parbhani

Applicant

Versus

Abdul Sajid Abdul Gaffar & others

Respondents

Mr.A.B.Girase, Government Pleader for applicants.
Mr. B.R.Waramaa, advocate for Respondents.
Mr.Satyajit S. Bora, advocate for Respondent No.2 in W.P.

**CORAM : R.M.BORDE &
K.K.SONAWANE, JJ.**

DATE : 25th August, 2016

PER COURT:

1 These are the Civil Applications presented by
applicants – Respondents No.3 and 5 in the writ petition for
recalling order passed by this Court on 11.08.2016, directing

issuance of bailable warrants against concerned Respondents for ensuring their presence in the Court on 25.08.2016.

2 Respondents were directed to file reply explaining certain points referred to in the order dated 15.03.2016. Since reply was not presented, this Court, on 20.07.2016, granted time of three weeks to the concerned respondents to comply with the directions and in the event of failure, they were directed to remain present in the Court. On the given date i.e. 11.08.2016, it was noticed that neither the direction in respect of presenting of affidavit has been complied with nor concerned respondents were present, as such, order came to be issued by this Court directing issuance of bailable warrants against concerned respondents for securing their presence.

3 It is recorded in the Civil Applications that the communication issued by the Office of Government Pleader, High Court Bench at Aurangabad, informing orders issued by this Court, was not noticed by the concerned respondents. They came to know about the orders issued by this Court only on 10.08.2016. A direction was issued to Respondent No.5 by Respondent No.3 to approach the Government Pleader and comply with the directions in respect of presentation of reply. It is stated that on 12.08.2016, Respondent No.5 approached this Court and he was informed in respect of the order issued by this Court on 11.08.2016.

4 It is noticed that in large number of matters, in spite of issuance of directions, those are not complied with and the reason assigned for failure to comply with the directions, is normally lack

of communication. Taking note of this aspect, the Division Bench of this Court, at the Principal Seat, while dealing with Writ Petition No.3509/2013, issued certain directions on 27.09.2013. Paragraphs no.3 to 6 are relevant for the purpose, which are quoted as below:

“3 In large number of Writ Petitions on the Civil side, this Court has noticed that the Government Officers do not respond to the letters written by the office of the Government Pleader. Therefore, the Government Pleaders find it extremely difficult to take factual instructions and to respond to the queries made by this Court. They are forced to seek repeated adjournments in the large number of cases on the ground that the concerned officers have not given instructions.

4 As far as Criminal Matters are concerned, there is a Nodal Officer appointed and all communications by the Office of the Public Prosecutor of this Court are forwarded to the police stations/departments of the State through the Nodal Officer who is responsible for contacting the concerned officials and who is responsible to ensure that the concerned Officers meet the concerned Prosecutor and give necessary instructions.

5 In some of the Writ Petitions, we have noticed that only on account of failure of the Government Pleaders to receive instructions in time, orders on merits are required to be passed in the absence of instructions of the Government Pleaders. Therefore, it will be appropriate if the State Government appoints a Nodal Officer and/or Nodal Agency. All correspondence by the office of the Government Pleaders of this Court can be addressed to the Nodal Officer who in turn shall be responsible for communicating the orders of the Court and requirement of the presence of particular officers in the office of Government Pleaders for giving instructions. Such Nodal Officer or Nodal Agency shall be responsible for ensuring that the concerned Government Officials contact the concerned Government Pleaders within the time specified by the Office of the Government Pleader.

6 We direct the State Government to take appropriate decision on this aspect within a period of three weeks from today.”

5 It is informed that pursuant to the directions issued by Division Bench of this Court on 27.09.2013, as referred to above, the State Government vide letters dated 25.10.2013 and 01.11.2013, directed all the Departments of the State of Maharashtra to

appoint Nodal Officers immediately and further directed them to inform the factum of such appointment to the Government Pleaders at Mumbai, Nagpur and Aurangabad.

6 The Government Pleader, High Court Bench at Aurangabad, vide letter dated 13.10.2015, informed the Divisional Commissioner, Aurangabad/Nashik as well as Collectors of all the Districts under the jurisdiction of High Court Bench at Aurangabad, to appoint Nodal Officers pursuant to the directions issued by Division Bench of this Court in Writ Petition No.3509/2013 and furnish necessary information to the Office of Government Pleader. A similar request has also been made to the Home Department, Director General of Police, Inspector General of Police, Aurangabad, Nanded, Nashik, Commissioner of Police, Aurangabad and Superintendent of Police of all the districts under the jurisdiction of High Court Bench at Aurangabad.

7 It is informed that some of the departments have complied with the directions, however, certain departments have failed to appoint Nodal Officers and to furnish necessary information to the Office of Government Pleader.

8 The Collectors of all the Districts within the jurisdiction of High Court Bench at Aurangabad shall appoint Nodal Officer or authorize any Officer from the Office of the Collectorate to attend legal matters at High Court Bench at Aurangabad and communicate name of such Officer to the office of Government Pleader within four weeks from today. Similarly, the Superintendent of Police of all the districts within the jurisdiction

of this Bench, Special Inspector General at Aurangabad, Commissioner of Police at Aurangabad/Nanded shall also appoint the Nodal Officer and communicate the details to the office of Government Pleader and Public Prosecutor at High Court Bench at Aurangabad, within time stipulated above. It shall be borne in mind that no latitude would be granted on the spacious plea of “***lack of communication***”, if the concerned departments failed to attend the matters and comply with the directions in future.

9 The Office of the Government Pleader shall circulate this order to all the concerned so as to ensure compliance of the directions.

10 For the reasons recorded in the Civil Applications, order passed by this Court on 11.08.2016 in W.P. No.2354 of 2016, directing issuance ofailable warrants against applicants – Respondents No.3 & 5 in the writ petition, is recalled.

11 Both the Civil Applications stand disposed of.

12 Writ Petition be listed for consideration on 22.09.2016.

K.K.SONAWANE
JUDGE

adb/ca1170216

R.M.BORDE
JUDGE